

APPENDIX B

REAL ESTATE PLAN

**ENGINEERING APPENDIX B
REAL ESTATE PLAN**

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1.0 GENERAL

From as early as 1997, local interests have been working with state and Federal agencies to coordinate the restoration and maintenance of a healthy Salmon River corridor near Challis, Idaho. Their initial focus was upon the 12-mile reach of the river that lies between the Highway 93 bridge and Bruno's Bridge in Custer County. (This has been further refined to examine specific locations as discussed below.) Early on, the county agreed to sponsor an Aquatic Ecosystem Restoration Project, but sponsorship later transferred to the Custer Soil and Water Conservation District. On March 26, 1999, a reconnaissance-level report entitled "Section 206 Preliminary Restoration Plan, Salmon River, Round Valley, Idaho," was approved. As a result, Headquarters, U.S. Army Corps of Engineers (HQUSACE), issued a Work Allowance Report dated August 10, 1999, which provided funds to initiate and complete this feasibility effort.

The proposed solution to environmental degradation along the Salmon River includes the use of various bioengineering techniques designed to reduce erosion and reestablish/stabilize key riparian and aquatic areas. These initiatives are described in more detail in other sections of this document.

2.0 PROPERTY AND PROJECT DATA

Challis (population 1,073±) is the county seat of Custer County, Idaho. It is a rural community located in east central Idaho, about 150 miles northwest of Idaho Falls via U.S. Highways 20 and 93. The economic base is derived from a combination of agriculture, mining, and recreation. Local government, schools, and retail/professional businesses also contribute to the local business character.

This project involves aquatic ecosystem restoration initiatives at five locations along a 7±-mile reach of the Salmon River. These project sites are located on the vicinity map (figure 1) and the real estate planning map (figure 2) and more particularly described as follows:

2.1 Site 1 Dunfee Slough is found approximately 1.5 miles southeast of Challis in Section 3, Township 13 North, Range 19 East and includes 93.47± acres within three private ownerships plus 0.06± acre belonging to the State of Idaho. It lies completely within the flood plain along the west side of the Salmon River and, because this carries a development prohibition, dry grazing and/or recreation is the highest and best use. A portion of the area has been improved with ponds, canals, and spillways to enhance the view from residential lots to the west. Site vegetation is comprised of cottonwood, small conifer trees, miscellaneous shrubbery, and grasses. Topography becomes increasingly uneven when nearing the river. Proposed access from the county road system is over a private (one owner) 6.40± acre primary street through a rural residential subdivision. An adjoining 5.26± acres of land to the restoration easement boundary will be required for temporary staging, storage, spoils, *etc.*

2.2 Site 2 One Mile Island is about 1.5 miles east of Challis and about 1 mile northeast of site 1 in Section 35, Township 14 North, Range 19 East. It encompasses 94.88± acres within four private ownerships plus 9.98± acres of river-submerged and minor uplands that were once part of the river corridor. The State of Idaho claims these latter locations. The restoration site is largely flood plain and, because this carries a development prohibition, dry grazing and/or recreation is the highest and best use. However, an area of irrigated hay pasture is found in the southwest corner of the site that has a higher and better use in that it lies above the flood plain and has some development potential. The topography varies from somewhat level in the pastures to undulating nearer the river. Vegetation includes mostly cottonwood trees, some small conifers, and miscellaneous shrubbery and grasses. Access from the county road system will be over existing private (14 owners) farm roads containing an aggregate 7.51± acres. No land beyond the project boundary will be required for temporary staging, storage, *etc.*

2.3 Site 3 Hot Springs is located approximately 2 miles northeast of Challis and about 1-mile northerly of site 2, in Sections 23, 24, 25, and 26, Township 14 North, Range 19 East. It encompasses 187.52± acres within two private ownerships, 0.16± acre belonging to the Bureau of Land Management (BLM) and 0.92± acre claimed by the State of Idaho. The mostly level site has generous frontage on the Salmon River. It is a

combination of open agricultural fields (*i.e.*, irrigated agriculture, irrigated pasture, and dry grazing) with some submeadow. Small, spring-fed streams bisect the property and there is some ponding. Given its proximity to Challis, the level topography and degree of river frontage, the highest and best use is considered to be for residential acreage development. Access from county owned Hot Springs Road would be over an existing private (two owners) road containing 1.64± acres. Lastly, an adjoining 20.64± acres (four ownerships) will be necessary to enable temporary staging, storage, spoils, *etc.*

2.4 Site 4 Pennal Gulch is located approximately 3 miles northwesterly of Challis and about 1 mile north of site 3 within Section 14, Township 14 North, Range 19 East. It includes 2.45± acres of private land (one ownership), 61.56± acres of BLM land and 12.80± acres claimed by the State of Idaho. A very small parcel of irrigated pasture is found at the northwesterly corner of the site. The rest lies almost completely within the flood plain along the west side of the Salmon River and, with the attendant development prohibition, grazing and/or recreation is the highest and best use. The topography is somewhat uneven and there is minimal vegetation present. Access from the county road system will be over an existing privately owned (one owner) road that has been granted to Idaho Department of Fish and Game for sportsman use. This road area contains an aggregate 1.75± acres. An adjoining 11.12± acres (three owners) of property will be required for temporary staging, storage, spoils, *etc.*

2.5 Site 5 Highway 93 Bridge has frontage on the right (south) bank of the Salmon River, about 2.5 miles southeast of Challis and just north of Highway 93. More particularly, it lies within the SE¼ of Section 10, Township 13 North, Range 19 East. The project site will include approximately 4.01± acres of State of Idaho property lying within the ordinary high water line of the river. Project site uplands and most of the access from the highway are under BLM ownership comprising 10.38± acres and 0.16± acre, respectively. An adjoining 4.41± acres of BLM land will also be necessary for staging, storage, spoils, *etc.*, during construction. Lastly, a nominal amount of Idaho Department of Transportation right-of-way may be necessary for connecting access between the highway and the BLM land. This site is unimproved rangeland that was once used as a borrow area. If available to the market, it would carry a highest and best use as a recreational site.

2.6 General Notes

To facilitate restoration at the above project sites, there will be an 11.03±-acre spoils area located about 1.5 miles northeasterly of Challis along the east side of Highway 93 in NE¼ SW¼ Section 22, Township 14 North, Range 19 East. This is an old, privately owned gravel pit that no longer has a marketable resource. This area will only be temporarily used during the 5-year duration of construction. Sites 1 and 5 also have spoils areas that require temporary work area easements within the project boundary.

Constructed fence boundaries and ecosystem restoration boundaries are the same, except for the Stark property, as noted on the design plate (plate 10).

There are no known mineral deposits of commercial value, nor is there any known presence of hazardous materials at the above locations. The project will not impact any building improvements and there will be no displacements or resettlements under Public Law 91-646 (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended). Similarly, no relocations of publicly regulated utilities or facilities are anticipated. The Government will make a final determination of any relocations necessary for the construction, operation or maintenance of the project after further analysis and completion and approval of final Attorney's Opinions of Compensability for any yet to be discovered impacts to utilities and/or facilities.

3.0 REAL ESTATE RECOMMENDATIONS

It is acknowledged that fee acquisition is preferred for this type of project per Engineering Regulation 405-1-12, Chapter 12. However, it is recommended that the primary project areas at sites 1 through 4 be acquired under a HQUSACE approved aquatic ecosystem restoration easement (non-standard) instead, because local property owners do not wish to participate in a project that causes them a net loss of acreage. Also, as the sponsor will not entertain condemnation, the result is a “willing seller” situation. In order to achieve vehicular access for project construction, operation and maintenance (O&M) at sites 1 through 4, it is recommended that the standard road easement estate be utilized. During the 5-year construction period, it is recommended that standard temporary work area easements be acquired at the spoils area and at site 3.

Copies of the aforementioned non-standard and standard easement estates are attached to this Real Estate Plan for reference and use by the sponsor. The non-standard ecosystem restoration easement was approved by Corps headquarters by e-mail notice dated October 21, 2003, from Robert D. Cribbin, Attorney Advisor, Civil Division, via Northwest Division.

Locations situated below the ordinary high water line (along with some minor abutting uplands) are claimed by the State of Idaho. These areas should be secured for project purposes by acquiring a permit or other authorized real estate interest from State of Idaho Department of Lands. Similarly, any requirement for access connections from Highway 93 at site 5 would require a separate permit or other authorized real estate interest from the State of Idaho Department of Transportation. Lastly, per instructions from a Salmon Area BLM representative, it is recommended that the land under that agency’s jurisdiction at sites 3, 4, and 5 be secured under a Cooperative Agreement through the Challis Field Office.

A State water permit may be required to acquire the water rights for irrigating (plantings/riparian areas). State law will control the use of any water from the river for watering plantings. The local sponsor must either:

- apply for and receive a permit from the state, or
- pay the landowner for use of water from existing water rights, or
- contract for irrigation by way of water truck.

Additional negotiations with the landowners are needed in order to determine if option 2 above is viable. If options 1 and 2 were determined to not be negotiable or feasible for the local sponsor, option 3 would be used, and included as part of the construction contract and sponsor O&M costs.

4.0 REAL ESTATE COSTS

The costs associated with project lands, easements, rights-of-way, relocations, and disposal areas (LERRD) are estimated below:

01 LANDS AND DAMAGES

LOCAL SPONSOR COSTS

LAND

Aquatic Ecosystem Rest. Easements	(11)	\$629,675	
Road Easements	(17)	13,100	
Temp. Work Area Easements	(4)	8,525	
State Permitted Areas		2,775	
BLM Areas (not creditable ***)		<u>0</u>	
Subtotal		\$654,075	
Contingency (20%)		<u>130,825</u>	
Total Land			\$784,900

ADMINISTRATION

Mapping & Surveying		\$135,000	
Title Evidence		9,500	
Appraisal		30,000	
Negotiation & Closing		35,000	
PL 91-646 (Title III)		<u>1,500</u>	
Subtotal		\$211,000	
Contingency (20%)		42,200	
Total Sponsor Administration			\$253,200

GOVERNMENT COSTS

ADMINISTRATION

Federal Review & Assistance		\$15,000	
Contingency (20%)		<u>3,000</u>	
Total Government Administration			<u>\$18,000</u>
TOTAL PROJECT REAL ESTATE COSTS			**\$1,056,100

****NOTE:** A 20 percent contingency has been added to the items comprising this total. This allows contingency for negotiation latitude and the passage of time between this report and actual real estate acquisition.

*******As the sponsor will only receive credit for the administrative costs associated with acquiring the BLM areas, the value of the rights to be acquired in these U.S. Government lands is not included in the above Cost Estimate.

5.0 REAL ESTATE MILESTONES AFTER STUDY

<u>ACTIVITY</u>	<u>COE INITIATE</u>	<u>COE COMPLETE</u>	<u>LS INITIATE</u>	<u>LS COMPLETE</u>
Execution of PCA		5-14-05 (forecast)		5-14-05 (forecast)
Formal transmittal of final ROW drawings to LS and instruction to acquire LERRD	PCA+¼ mo.			
Prepare mapping		PCA+¼ mo.	PCA+2¼ mo.	
Obtain title evidence		PCA+¼ mo.	PCA+2¼ mo.	
Obtain tract appraisals		PCA+2½ mo.	PCA+4½ mo.	
Review tract appraisals.	PCA+4½ mo.	PCA+5½ mo.		
Conduct negotiations		PCA+5½ mo.		PCA+11¾ mo.
Obtain possession			*PCA+12 mo.	

*Note: The above schedule is what is ideally recommended. However, the sponsor has indicated that it may be willing to assume the risks of acquiring some of the standard estates/interests in advance of PCA signing, which may be necessary if the schedule shown in chapter 11 of the Detailed Project Report (DPR) and/or the construction sequence of sites in chapter 10 of the DPR is accelerated. An accelerated schedule could be accomplished for BLM project areas, as appraisals, negotiations and possession would not be required.

Key to abbreviations, this page

COE =	Corps of Engineers
LERRD =	Lands, Easements, Rights-of-Way, Relocations and Disposal Areas
LS =	Local Sponsor
PCA =	Project Cooperation Agreement
ROW =	Right-of-Way
DPR =	Detailed Project Report

RECOMMENDED NON-STANDARD ESTATE EASEMENT FOR ECOSYSTEM RESTORATION

Salmon River Section 206 Project
Custer County, Idaho

A perpetual and assignable right and easement in, on, over, and across the land described in Exhibit A, attached hereto and made a part hereof, (Tract No. _____) to construct, operate, maintain, repair, alter, rehabilitate, remove, monitor and replace (levees and) ecosystem restoration features in and adjacent to the channel of the Salmon River and its attendant sloughs and springs, including, but not limited to: plantings; creation or modification of channels; channel and bank stabilization; the placement of materials, structures or screening in the stream bed or banks that influence fish passage, stream velocity or channel form; the placement of fencing for livestock control and watering or other purposes; the removal or placement of gravel or cobbles, boulders, and other structures or conveyances to recharge ground water or maintain flows to wetlands and to enhance fish habitat; (together with the right of ingress and egress on and across the lands of the Grantor described in Exhibit B attached hereto and made a part hereof, for the construction, operation, maintenance, repair, alteration, rehabilitation, removal, replacement and monitoring of the above described ecosystem restoration features and improvements on the lands of the Grantor described in Exhibit A.); reserving, however to the Grantor, (his) (her) (their) (its) (heirs) (successors) and assigns, all other rights and privileges that may be used without destroying, modifying or otherwise disturbing the work or improvements constructed hereunder or in any manner interfering with or abridging the enumerated rights and easement hereby conveyed and acquired, including the right to extract and convey water for livestock and/or irrigation on adjacent lands; provided that no structures or new livestock watering or irrigation facilities or appurtenances be constructed or maintained on the land, or grazing of livestock be permitted, without prior written consent of the Grantee; all subject to existing easements for public roads and highways, public utilities, railroads and pipelines.

RECOMMENDED STANDARD EASEMENT ESTATES

Salmon River Section 206 Project
Custer County, Idaho

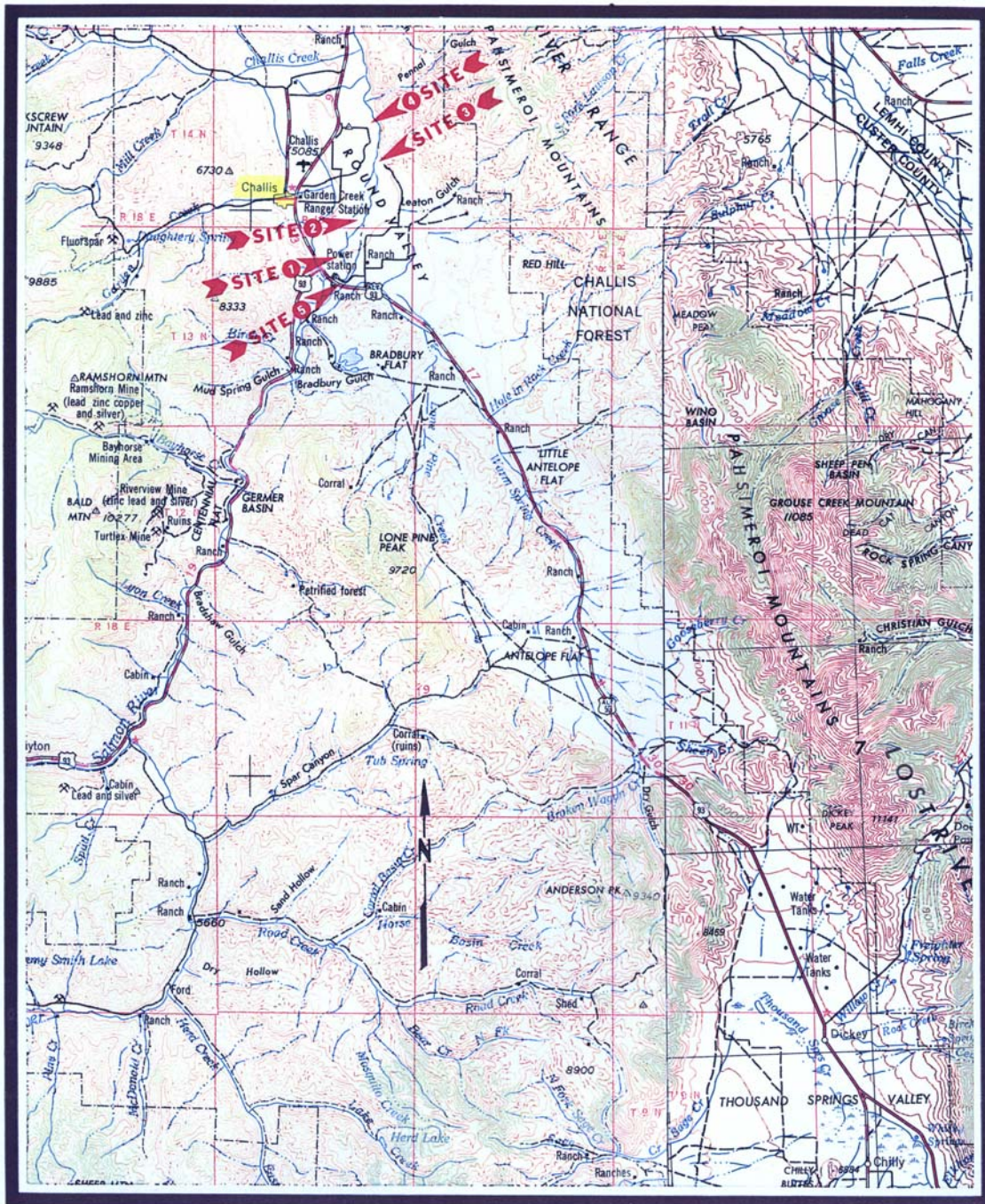
ROAD EASEMENT

A perpetual and assignable easement and right-of-way in, on, over and across (the land described in Schedule A) (Tract Nos. _____, _____ and _____) for the location, construction, operation, maintenance, alteration and replacement of (a) road(s) and appurtenances thereto; together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions and other vegetation, structures, or obstacles within the limits of the right-of-way; (reserving, however, to the landowners, their heirs and assigns, the right to cross over or under the right-of-way as access to their adjoining land at the locations indicated in Schedule B);** subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

**The parenthetical clause may be deleted, where necessary; however, the use of this reservation may substantially reduce the liability of the sponsor through reduction of severance damages and consideration of special benefits; therefore, its deletion should be fully justified. Also, access may be restricted to designated points as mentioned in the standard Railroad Easement

TEMPORARY WORK AREA EASEMENT

A temporary easement and right-of-way in, on, over and across (the land described in Schedule A) (Tracts Nos. _____, _____, and _____), for a period not to exceed five years, beginning with date possession of the land is granted to the Custer Soil and Water Conservation District, for use by the Custer Soil and Water Conservation District, its representatives, agents, and contractors as a (borrow area) (work area), including the right to (borrow and/or deposit fill, spoil and waste material thereon) (move, store and remove equipment and supplies, and erect and remove temporary structures on the land) and to perform any other work necessary and incident to the construction of the Salmon River Section 206 Aquatic Ecosystem Restoration Project, together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however to existing easements for public roads and highways, public utilities, railroads and pipelines.



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Scale: 1"= 4 Miles

Vicinity Map

Figure 1

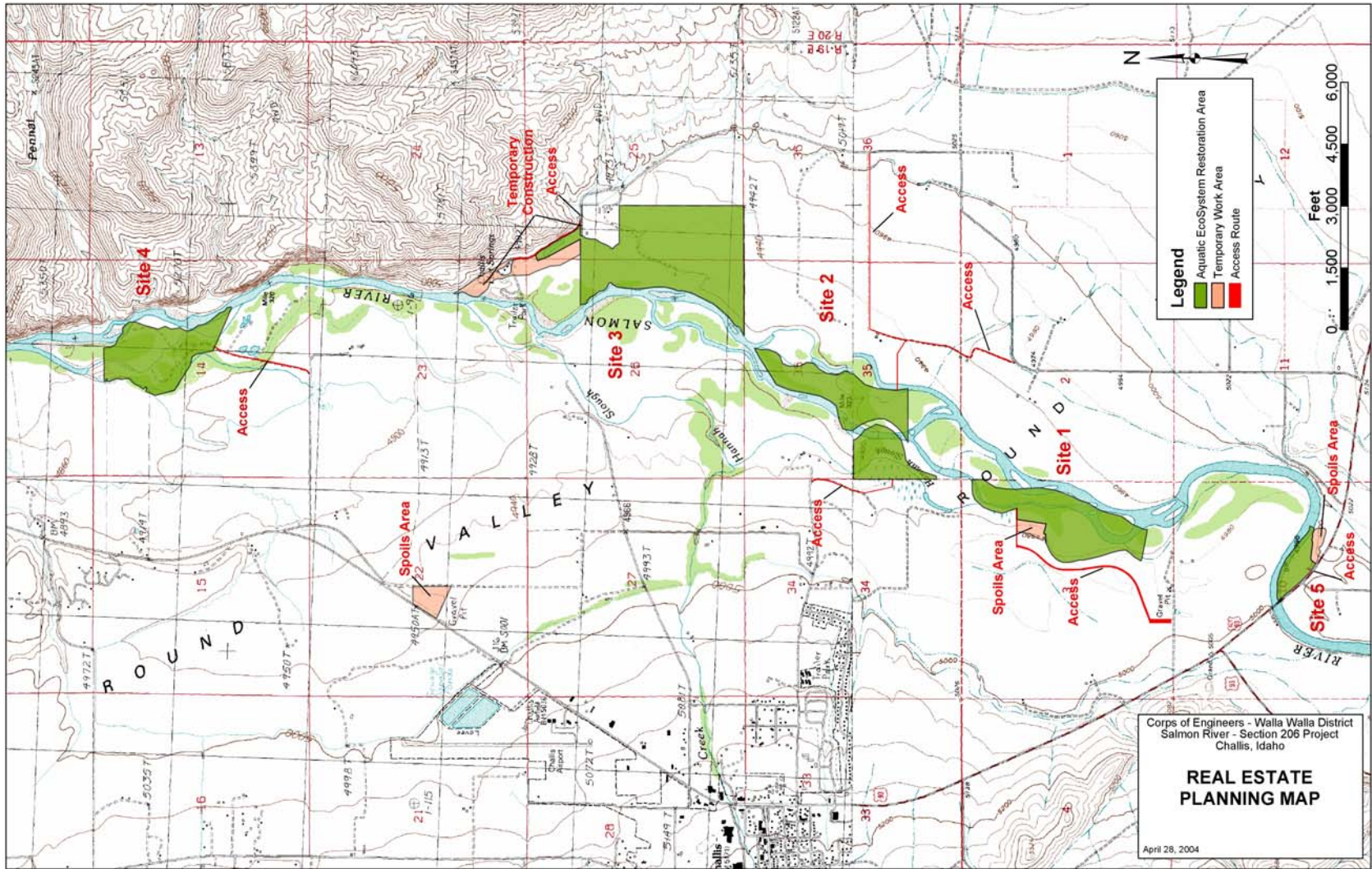


Figure 2

B-5-5